

Counsel listed on the signature page.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

VOIP-PAL.COM, INC., a Nevada corporation,

Plaintiff,

v.

APPLE INC., a California corporation,

Defendant.

Case No. 5:18-cv-06216-LHK

JOINT CASE MANAGEMENT STATEMENT

Date: September 19, 2019

Time: 1:30 p.m.

Courtroom: 8, 4th Floor

Judge: Honorable Lucy H. Koh

VOIP-PAL.COM, INC., a Nevada corporation,

Plaintiff,

v.

AMAZON.COM, INC., a Delaware corporation;
AMAZON TECHNOLOGIES, INC., a Nevada corporation,

Defendants.

Case No. 5:18-cv-07020-LHK

In accordance with Civil L.R. 16-10(d) and the Court's May 22, 2019 Case Management Order, Plaintiff VoIP-Pal.com, Inc. ("VoIP-Pal") and Defendants Apple Inc. ("Apple") and Amazon.com, Inc. and Amazon Technologies, Inc. ("Amazon") submit this Joint Case Management Statement in advance of the Case Management Conference scheduled for September 19, 2019. This Joint Case Management Statement addresses relevant updates since the parties' May 15, 2019 Joint Case Management Statement. (*See* Case No. 5:18-cv-06216 ("Apple Action"), ECF No. 79; Case No. 5:18-cv-07020 ("Amazon Action"), ECF No. 58; also attached hereto as Exhibit A.)

1. Pending Motions

Amazon and Apple's joint motion to dismiss VoIP-Pal's First Amended Complaints is fully briefed.¹ The motion contends that VoIP-Pal's First Amended Complaints should be dismissed in their entirety because the asserted patents fail to comply with 35 U.S.C. § 101. Apple and Amazon filed their joint motion to dismiss on June 5, 2019. (Apple Action, ECF No. 89.) On June 20, 2019, VoIP-Pal filed its corrected opposition to Defendants' motion to dismiss. (Apple Action, ECF No. 91.) Amazon and Apple filed their joint reply in support of their motion to dismiss on June 26, 2019. (Apple Action, ECF No. 92.)

On August 26, 2019, VoIP-Pal filed an administrative motion requesting leave to file a supplemental brief in further opposition to Defendants' motion to dismiss. (Apple Action, ECF No. 96.) Amazon and Apple filed their joint opposition to VoIP-Pal's administrative motion on August 29, 2019. (Apple Action, ECF No. 97.)

2. Claim Construction

The parties have fully briefed claim construction. VoIP-Pal filed its Opening Claim Construction brief on July 15, 2019. (Apple Action, ECF No. 93.) Amazon and Apple filed their joint Responsive Claim Construction brief on August 2, 2019. (Apple Action, ECF No. 94.) On August 9, 2019, VoIP-Pal filed its Reply Claim Construction brief. (Apple Action, ECF No. 95.) A claim construction hearing is set for September 19, 2019. (*See* Apple Action, ECF No. 85.)

¹ Following leave of the Court, VoIP-Pal filed its first amended complaint against Apple and Amazon on May 17, 2019. (Apple Action, ECF No. 81; Amazon Action, ECF No. 61.)

1 The resolution of certain claim construction disputes are potentially case-dispositive; specifi-
2 cally, Defendants contend, *inter alia*, that each of the asserted claims are invalid as indefinite.
3 (*See* Apple Action, ECF No. 94 at 4–9.)

4 The parties do not intend to present live testimony during the Claim Construction Hear-
5 ing. (Apple Action, ECF No. 82 at 3.)

6 In lieu of a technology tutorial, the parties propose that they address any questions the
7 Court may have regarding the subject matter of the Patents-in-Suit during the Claim Construction
8 Hearing.

9 **3. ADR Update**

10 **a. The Apple Action**

11 Pursuant to ADR L.R. 3-5, the parties and counsel have reviewed the Court’s ADR hand-
12 book, discussed the available ADR procedures, and considered whether this case would benefit
13 from an ADR procedure. Based on that discussion, the parties intend to stipulate to an ADR
14 process at an appropriate time.

15 Apple believes that ADR would not be productive until the Court’s ruling on Defendants’
16 motion to dismiss and/or the Court’s claim construction ruling, either one of which could resolve
17 the case in its entirety.

18 **b. The Amazon Action**

19 As required by ADR L.R. 3-5, the Parties have reviewed the Court’s ADR handbook,
20 discussed the available ADR procedures, and considered whether this case would benefit from
21 an ADR procedure. Based on that discussion, the parties intend to stipulate to an ADR process
22 at an appropriate time.

23 Amazon believes that ADR would not be productive until the Court rules on Defendants’
24 motion to dismiss and/or claim construction, either one of which could resolve the case in its
25 entirety.

1 Dated: September 12, 2019
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ATTESTATION

I, Kevin N. Malek, hereby attest that concurrence in the filing of this document has been obtained from counsel for all of the applicable Defendants for whom signatures have been provided.

By: /s/ Kevin N. Malek